Peter W.
BARCA
Majority Caucus Chairman

Co-Chair, Joint Committee on Audit
Committee on Financial Institutions
Chair, Partnership for a Stronger Economy
Committee on Jobs, the Economy & Small Business

Testimony before the Assembly Committee on Insurance

On AB 758 and SB 513, regarding life settlements

March 11, 2010

Chairman Cullen and members of the Assembly Committee on Insurance, thank you for holding a public hearing on Assembly Bill 758 and Senate Bill 513. Thank you also to my colleague from Kenosha, Senator Wirch, and to Commissioner Dilweg for appearing with me today.

The insurance industry in Wisconsin has a long and respected history and Commission Dilweg is a leader among state insurance commissioners. I have worked closely with him on a number of issues and appreciate his expertise in the area of insurance and his commitment to consumer protection.

The basic principle of insurance is to protect against loss, not create opportunities for speculation. This legislation is not about regular life insurance policies, where both the insured person and the insurer have an interest in the person living and the insured person is usually trying to provide for dependents in case of premature death, but about an exotic investment vehicle known as Stranger Originated Life Insurance Transactions or STOLIs. These are life insurance policies created to be sold to third parties to bet on death. Equally disturbing is that consumers can find that purchasing one of these policies damages their credit, especially if they were induced to borrow in order to purchase a large policy, and it can become difficult, if not impossible, to purchase regular insurance after taking out a STOLI policy.

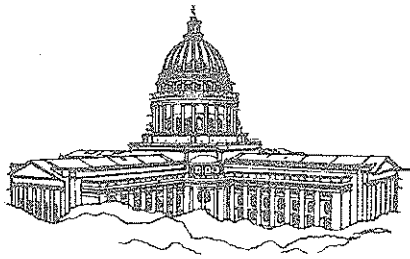
This legislation is the result of many months of meeting by the diverse members of a working group convened by Commissioner Dilweg. The group included companies that

State Capitol, P.O. Box 8952, Madison, WI 53708 • (608) 266-5504 • Toll-Free: (888) 534-0064
64th Assembly District • rep.barca@legis.wi.gov

create and market these unusual policies for investors. The working group reviewed STOLIs, model regulatory legislation proposed by national groups and legislation in other states and considered whether and how the state ought to regulate these life insurance policies. Like most working groups, not every member ultimately agreed with everything in this legislation.

Nevertheless, I feel strongly that the regulatory framework created in this legislation will continue to allow legitimate life settlement transactions, where the long-time holder of a life insurance policy who needs or decides to sell the policy to a third party can still do so. This legislation will also create the appropriate mechanisms for proper consumer protection in this area and reinforce public policy that discourages speculation on death. Supporters of this legislation include not only major life insurers, but also the AARP, the State Bar of Wisconsin and the Coalition of Wisconsin Aging Groups.

Commissioner Dilweg will speak more comprehensively about the details of the proposed regulation, but I am confident that the committee will agree that this legislation is reasonable and properly balances the needs of consumers for legitimate life insurance that protects against loss and yet allows consumers to exercise control over the disposition of their policies.



LENA C. TAYLOR

Wisconsin State Senator • 4th District

HERE TO SERVE YOU!

Statement of Senator Lena C. Taylor

Assembly Committee on Insurance

Opposing SB 513/AB 758

Thursday, March 11, 2010

Honorable Chairperson Cullen and members of the Committee:

As the chairperson of the Senate Committee with jurisdiction over Insurance matters, I felt compelled to submit written testimony expressing my hope that you will not support passage of SB 513/AB 758. From my own personal experience in the Senate, I can attest that the process in regards to this legislation is not representative of the charge we have been given by our constituents to thoroughly examine all sides of an issue before making it law. When I realized that SB 513 was being fast tracked through the Senate, I attempted to introduce counter-legislation that was based on the NCOIL model act, but it was evident that such a measure was not welcome. My hope was that my colleagues would examine both SB 513 and its counter-legislation, become informed on each, and then make an informed decision before casting their vote one way or the other, as it should be. However, as you have clearly been made aware, this was not the case. Given the expedited time frame of SB 513 (which began circulation on January 29th and was passed out of the Senate on February 23rd), it is clear that the consequences its passage would have on consumer property rights and protection of a competitive marketplace were not properly considered.

I am very concerned with the fact that this legislation affects the choice a consumer has to sell their property on the life settlement market by expanding the prohibition from 2 to 5 years. Although proponents claim that there are exceptions to still allow sale after 2 years, a layer of bureaucracy will now be placed upon the consumer to prove they qualify for an exception. And this expansion is being justified for no legitimate reason. Given that they now have un-restricted free choice of what to do after two years, it remains a reality that under SB 513/AB 758 their rights will be changed and impeded upon. I hesitate to change 125 years of case law in Wisconsin, at the detriment of the consumer, without a legitimate public reason or proof of harm.

I am not stating that stranger originated life insurance should not be prohibited, and that the life settlement market should not be properly regulated. They should. However, these issues are very complex and impact literally dozens of insurance codes and multiple consumer property and choice rights. Thus, they require in-depth exploration and debate as well as a clear and transparent process.

I urge you not to support passage of SB 513/AB 758 at this time. Allow us, as legislators, the opportunity to properly write language to prohibit STOLI, regulate the life settlement market, and in the meanwhile, protect invaluable consumer rights in a legal and professionally recognized competitive marketplace. It can be achieved, if done right. 19 other states have been able to do just that, I ask why can't Wisconsin do the same?

State Capitol, PO Box 7882
Madison, WI 53707-7882
Phone: (414) 342-7176
Capitol: (608) 266-5810

Fax: (608) 267-2353
Toll-free: 1-888-326-6673
Sen.Taylor@legis.wisconsin.gov
www.SenatorTaylor.com

Committee on Judiciary, Corrections, Insurance, Campaign Finance Reform, and Housing (Chair)
Committee on Justice Reinvestment Initiative Oversight (Chair)

Joint Committee on Finance
Joint Committee for Review of Criminal Penalties (Co-Chair)
Committee on Strengthening Wisconsin Families (Co-Chair)

WCLI

Wisconsin Council of Life Insurers
Parrett & O'Connell, LLP
10 East Doty St. – Suite 621, Madison, WI 53703
Phone: 608-251-1968

MEMORANDUM

TO: HONORABLE MEMBERS OF ASSEMBLY INSURANCE COMMITTEE

FROM: CONNIE L. O'CONNELL, WISCONSIN COUNCIL OF LIFE INSURERS

SUBJECT: LIFE SETTLEMENT REGULATION – AB 758

DATE: MARCH 11, 2010

The Wisconsin Council of Life Insurers, an organization representing both domestic and nondomestic life insurance companies licensed in Wisconsin, strongly supports Assembly Bill 758 (AB 758) providing consumer protection in life settlement transactions.

AB 758 provides critical consumer protections within life settlement transactions, particularly those transactions known as Stranger Originated Life Insurance (STOLI). STOLI schemes involve investors, who are wholly unrelated to an individual, acquiring life insurance on that person solely to profit from his or her death. The sooner the person dies, the higher the profit. In effect, STOLI allows investors to speculate on the insured's life. This practice disregards state insurable interest laws that mandate life insurance not be used for wagering on human life.

The Wisconsin Office of the Commissioner of Insurance, the Department of Financial Institutions, consumer groups, the Elder Law Section of the Wisconsin State Bar, AARP, the Coalition of Wisconsin Aging Groups, the life insurance industry, the National Association of Insurance and Financial Advisors, and others strongly support AB 758.

AB 758 is similar to laws adopted by Ohio, Iowa and Minnesota. In order to deter the manufacture of life insurance policies, AB 758 includes limitations, **but not a ban**, on

the ability to settle a policy that carries one or more "hallmarks" of this kind of arrangement within 5 years of purchasing the policy. These hallmarks do not exist in a normal insurance purchase and include: 1) an agreement to sell the policy; 2) a separate analysis of the purchaser's mortality; and 3) premiums which are financed without any personal stake on the part of the purchaser. Even if a policy is initiated with one of the hallmarks, the five year limit does not apply if the individual has a hardship need to sell the policy such as bankruptcy, illness, divorce, etc. In an abundance of caution, the legislation includes rulemaking authority for OCI to identify additional hardship causes to allow earlier settlement of a policy that has the characteristics of a STOLI transaction. Further, an individual who purchased insurance for legitimate protection reasons will not be subject to this limitation at all.

This targeted provision, along with the consumer disclosure and other provisions in AB 758, will allow the legitimate life settlement market to continue to operate but will greatly discourage entities from the manufacture of life insurance policies for profit. The life settlement industry is opposed to this bill and is supporting alternative legislation. The measure they support does not include the five year limitation on suspicious transactions and creates loopholes that would allow the sale and marketing of STOLI schemes to continue.

The Wisconsin Council of Life Insurers strongly encourages you to support AB 758 to effectively regulate life settlement transactions and create a strong deterrent for STOLI. Please do not hesitate to contact me should you have any questions.

Elder Law Section Board

State Bar of Wisconsin
Wisconsin Lawyers. Expert Advisers. Serving You.

March 11, 2010

TO: Assembly Committee on Insurance

FR: Attorney Ben Adams
Chair, Elder Law Section

RE: support for AB 758 relating to: life settlements

The Elder Law Section is comprised of a cross-section of practitioners who work to protect the rights of our clients and consumers. As attorneys, we work to develop and improve the laws that affect the elderly, and promote high standards of ethical performance and technical expertise for those who practice in the area.

Assembly Bill 758 updates the viatical settlements statute and regulates life settlement transactions. The bill prohibits stranger originated life insurance (STOLI) transactions where a third party without an insurable interest buys a life insurance policy on the life of the insured. The bill prohibits STOLI transactions, but allows and regulates life settlement of insurance policies.

In recent years, a new life settlement industry has arisen, engaging in the brokering of high value policies which are purchased by consumers generally over the age of 70 with borrowed funds through non-recourse loans and sold after the two-year incontestability period has passed to syndicates or other entities who hold the policies to maturity. The insured is able to sell the policy for much more than the cash surrender value but less that the face value of the policy; pay off the loan, and pocket a profit. But the brokers profit even more with commissions paid for finding these consumers, inducing them to buy high value policies financed with non-recourse loans, and guiding them to the syndicates that buy the policies. Although technically not STOLI because the insured has purchased his own policy, the scheme accomplishes the same goal. Assembly Bill 758 regulates this practice.

STOLI represents a threat to Wisconsin's mostly elderly consumers and to Wisconsin life insurance companies. The practice should be regulated to prevent the deliberate purchase of a life insurance policy with borrowed funds which the purchaser has no intention of keeping. A policy purchased for the purpose of making a quick profit on the resale is a threat to the continued vitality of the life insurance industry, to the detriment of consumers who legitimately need life insurance policies for the protection of their families, their business partners and their businesses.

The harm to older consumers from the STOLI industry includes the fact that there are life

insurance policies owned by strangers who have no insurable interest in the life of the insured and who benefit by the early death of the insured. In addition, once the STOLI policy has been issued, the insured may no longer be able to obtain additional life insurance to protect newly arising family needs for insurance. The insured who sells his policy may not understand that he is receiving taxable income.

All consumers are injured by the STOLI industry because life insurance premiums are likely to rise in the future; lapse rates assumed by the issuing insurance companies in their underwriting process do not presently take into account the never-lapsing policies owned by the syndicates who instigate and purchase these policies. If premiums rise and life insurance becomes unaffordable for middle class families, those families will suffer harm when the uninsured breadwinner in the family dies an untimely death. Small businesses will suffer if life insurance becomes unaffordable to use for insuring key persons or for funding the buyout of a business partner or purchase of the partner's share of the business from his estate.

STOLI has been the subject of lawsuits in other states and has been the subject of newspaper articles in the past year in Wisconsin. Often the transactions have involved dishonest brokers who instigated the STOLI arrangements and who profited from the sale of the policies. There have been instances of brokers who have not paid insurance premiums with money taken from the purchaser for that purpose, and of brokers who have themselves secretly purchased policies from which to personally profit on individuals who lacked capacity to understand the transactions and give consent. There are brokers who do not disclose crucial facts to prospective purchasers. But these abuses are not the only reasons for regulating the life settlement industry. The practice of buying a life insurance policy for the express purpose of selling it to make a fast profit does injury to the life insurance industry and in turn injures consumers who need life insurance protection. Wisconsin would be well advised to regulate the life settlement industry to prevent the harm to consumers and to Wisconsin businesses.

Assembly Bill 758 deals with training and licensure of anyone wishing to sell insurance policies. It requires full disclosure to the prospective purchaser of the policy. Meaningful disclosure is especially important in view of the risks involved. However, the most important protection is the prohibition on the sale of a policy in the first 5 years after its issuance, except for substantial change in circumstances that would permit an earlier sale of the policy. The exceptions stated in the bill are numerous and cover all conceivable justifiable reasons for selling one's policy in the first 5 years of ownership. A five-year period will discourage non-recourse financing of the premiums on life insurance policies and will discourage these STOLI transactions.

The lawyers who represent older clients have observed an increase in STOLI activity and have witnessed the lack of clear information received by the prospective purchasers who have been solicited to purchase these policies. There is a need for legislation to regulate STOLI transactions, and the time is now, before there are more injured consumers whom the insurance commissioner cannot protect because of the lack of adequate legislation in Wisconsin.

The Elder Law Section strongly urges your support for this bill.

****

If you have questions about this memorandum, please contact Sandy Lonergan, Government Relations Coordinator, at slonergan@wisbar.org or (608) 250-6045.

State of Wisconsin / OFFICE OF THE COMMISSIONER OF INSURANCE

Jim Doyle, Governor
Sean Dilweg, Commissioner

Wisconsin.gov

125 South Webster Street • P.O. Box 7873
Madison, Wisconsin 53707-7873
Phone: (608) 266-3585 • Fax: (608) 266-9935
E-Mail: ocIinformation@wisconsin.gov
Web Address: oci.wi.gov

Testimony of
Sean Dilweg, Commissioner of Insurance
Before the Assembly Committee on Insurance
Assembly Bill 758 and Senate Bill 513
March 11, 2010

Thank you Representative Cullen and members of the Committee for conducting this hearing on this important piece of legislation.

I would like to thank Representative Barca and Senator Wirch for introducing Assembly Bill 758 and Senate Bill 513. The bills will update Wisconsin's statute that currently limited to only a small segment of today's marketplace.

Life settlements work in a similar manner to a viatical settlement. A life insurance policy is sold by a policyholder for an amount less than the stated death benefit, but generally more than any cash value that may have accumulated over the life of the policy. Investors purchase the policies, continue to make premium payments and collect the death benefit when the insured dies. Life settlement transactions create an investment vehicle with a financial interest in the death of the policy owner. The sooner a policy holder dies, the greater the return on the investment.

One version of life settlements, Stranger Originated Life Insurance (STOLI), where a life insurance policy is purchased by a third party without an insurable interest in the insured has been a growing problem in other states. Last year the United States Court of Appeals for the Sixth Circuit described STOLI transactions as "insurance fraud." The typical STOLI transaction begins when senior purchases insurance on his or her own life based on an understanding that he or she will sell the death benefits to the investors after the two-year contestability period has expired. The investors or a third-party broker usually arrange a non-recourse loan to pay the premiums during the first two years. Once the policy is transferred, the investors pay the premiums and receive the death benefits after the insured dies.

Life settlements are currently unregulated in Wisconsin. Wisconsin's existing viatical settlement statute is limited to life insurance policies that are sold by policyholders with terminal or life-threatening illnesses. These statutes served an important purpose for AIDS patients and others who were incurring large medical costs associated with their illnesses.

Since Wisconsin enacted Viatical Settlement legislation in 1995, the life settlements market, however, has seen tremendous growth. Currently, the industry has moved away from purchasing the policies of terminally ill patients to the purchase of life insurance policies from individuals and then packaging those policies to sell as investments. In an October 2008 report, Conning Research estimated about $12

billion in face amount of life settlements changed hands in 2007, up from $6.1 billion in 2006. By 2012, Conning estimates that figure will approach $21 billion. Some estimates have the industry growing to as much as $90 to $120 billion in the next decade.

States have been scrutinizing life settlement transactions, most recently in New York and Florida. Concerns those states have raised include issues of fiduciary interest to the policyholders, tax issues and the ability for seniors to acquire additional life insurance coverage, and of particular concern, the lack of adequate disclosure by life settlement providers and brokers to both policyholders and investors. Life settlements are also garnering attention from the federal level. The U.S. Senate Special Committee on Aging, chaired by Senator Herb Kohl, conducted a hearing last year entitled "Betting on Death in the Life Settlement Market - What's at Stake for Seniors." Senator Kohl followed up this hearing with a request to the General Accounting Office asking for the agency to review the current status of life settlement regulation in the states. The Securities and Exchange Commission has also assembled an agency wide task force to examine the life settlement industry.

Additionally, the life settlements industry has moved into an area that concerns me. Life settlement contracts are being bundled and sold as securities to institutional investors. As these contracts are packaged and sold as securities, my concerns become twofold. First, it is just this type of exotic investment vehicle that was at the center of the most recent financial crisis and current recession. Second, because securitization requires a large number of contracts in order for them to be packaged together, we have begun to see life settlements transactions that involve policies with smaller death benefit amounts. Until now, the ideal life settlement transaction involved wealthy individuals with life insurance policies with one or two million dollar death benefits. Recently however, we are seeing life settlement contracts on policies with $500, $250, and even $100 thousand death benefits.

The current economic downturn has made life settlements an alternative for some seniors attracted to the quick payout that a life settlement transaction offers leaving them with little or no life insurance coverage to protect their families. Seniors however, need to be aware of the impact that entering into a life settlement contract can have on them and their families, their tax situation and the life insurance coverage they are losing.

It is because of the fast-paced growth in this market and the potential impact on life insurance consumers, including seniors, that we recognize the need for additional regulation in the marketplace. The goal is to ensure that policyholders are protected and fully aware of the implications of entering into a life settlement contract.

Recognizing the need for additional regulation, in 2008, I convened a sub-group of OCI's Life Insurance Advisory Council to make recommendations for an updated statutory structure to address this changing market. The sub-group included consumer representatives, insurance companies, life insurance agents, life settlement companies (Coventry and Timber Creek Financial), members from the Life Insurance

Settlements Association, and the American Council of Life Insurers. The sub-group had its first meeting on December 16, 2008.

Over the next six months the sub-group held seven monthly meetings discussing how Wisconsin should regulate life settlements. The sub-group heard presentations from life settlement companies and insurance companies. The group also reviewed laws and proposed legislation in other states and reviewed the tax implications of life settlement transactions. The group spent a number of months working over the draft recommendations that are represented in the bill before you.

While one might expect that the two sides wouldn't reach agreement on every issue, it was gratifying to see there was significant agreement on how the life settlements market should be regulated in Wisconsin. The subgroup was able to achieve consensus on about 90% of the provisions before you. The differences represent fundamental differences of opinion where no consensus would likely ever be reached. Where those differences remained, I have recommended statutory language for what I thought was in the best interests of life insurance policyholders.

The bill before you will update Wisconsin's viatical settlement statute. Currently 28 states have enacted life settlement legislation and 10 states have introduced legislation. Both the National Association of Insurance Commissioners (NAIC) and the National Conference of Insurance Legislators (NCOIL) have adopted model regulations on life settlements. The laws in the other states are based on either the NAIC or NCOIL model or a hybrid version including aspects of both models. This bill represents what I consider to be a combination of the best aspects of both models.

The major provisions of the bill will:

- Ban STOLI transactions.
- Provide a definition of life settlements, Stranger Originated Life Insurance, and fraudulent acts in the life settlement market.
- Require life settlement providers and brokers to be licensed by the Commissioner.
- Require brokers to meet training requirements that enable a broker to demonstrate an adequate knowledge of life settlement transactions and can competently discuss life settlements with policyholders. The required training includes a continuing education component.
    - Current viatical settlement license holders will have 6 months to update their educational requirements to the new requirements.
- Require specific disclosures to policyholders about the life settlement transaction.
- Require life settlement contracts and disclosures to be filed with and approved by the Commissioner
- Describe prohibited practices and regulate advertising.
- Include a five year prohibition on life settlement transactions, with financial hardship exceptions.

It is important to recognize that this legislation does not seek to prohibit legitimate life settlements. The bill will prohibit certain practices and set down specific guardrails for the marketplace. I believe this bill will protect and inform consumers and policyholders about life settlement transactions and their implications.

I want to thank the Committee for taking up this legislation, and Representative Barca and Senator Wirch for sponsoring this legislation. I would be happy to answer any questions.

Wisconsin Legislative Strategies, Inc.
14 W Mifflin St, Suite 206
Madison, WI 53703

(608) 255-5522 tel • (888) 881-4971 fax • www.wiscls.com

To: Assembly Committee on Insurance

From: Jason Johns, Representing Coventry

Re: Opposition to SB 513/AB 758

Date: March 11, 2010

Chairman Cullen and Members of the Committee;

Good morning and thank you for allowing me to appear before you to express my client's opposition to SB 513/AB 758. I have had the opportunity prior to today to discuss this legislation with each of you in-depth so will refrain from reciting the technical aspects. Rather, I would like to address the flawed process this legislation has undergone and briefly touch on the major concerns my client Coventry has with these bills.

As you are aware from written materials I have submitted to your offices, SB 513 has clearly been railroaded through the Senate without what we feel was an adequate legislative process. In the short period of just under one month SB 513 was circulated, heard, voted out of committee and subsequently passed by the full Senate. This comprehensive, 50 page piece of legislation, introduced at the request of the Insurance commissioner, affecting dozens of insurance codes, and regulating the sale of life insurance policies, did not go through the Senate Insurance committee. In addition, legislation circulated by the Insurance Committee chair, which was based on the alternative NCOIL model passed in 19 other states, was not even given the light of day to be properly debated next to SB 513. This is no way to conduct the business of the people in the Legislature.

Coventry has many concerns with this legislation. But the major ones on the forefront include:

1) **Prohibition on assignment of life insurance policies to the life settlement market for a period of 5 years from inception of policy:**

   - Why? Current U.S. and Wisconsin law, dating back to 1886 in Wisconsin, states that a life insurance policy is the property of the insured and includes the protected right to sell the property in an open and competitive market. A five year ban on life settlements takes away these property rights and, in the words of one of the National Association of Insurance Commissioner's (NAIC) own funded consumer advocates, **"restores a monopoly"** for life insurance companies.

Proponents claim given the "exceptions" permitted to allow assignment after 2 years, that if a life settlement transaction does not meet the exception, then it must be STOLI. This is simply not true and turns

Wisconsin Legislative Strategies, Inc.
14 W Mifflin St, Suite 206
Madison, WI 53703
(608) 255-5522 tel • (888) 881-4971 fax • www.wlsh.com

property rights on its head, requiring policyowners to prove they qualify for one of the so-called "hardship" exceptions to restore their property rights.

- The problem of stranger-originated life insurance (STOLI) is a **PRIMARY MARKET** problem, involving the improper and illegal manufacturing of life insurance. The solution of STOLI, therefore, is a primary market solution-and does not involve limiting the right to assign a policy. In other words, STOLI cannot be realized unless a policy is issued by an insurance company. No policy issuance, no STOLI.

- This is nothing more than a protectionist proposal to reduce life settlements, and not address STOLI. As the Chief Actuary from Northwestern Mutual stated "The vast majority of policyholders who lapse their policies before death are the "losers". They receive much less at surrender than what any reasonable person would perceive as acceptable value.... If an issuing company does not provide fair value, policyholders will proceed directly to a secondary market-presumably, a viatical (life settlement) company-to get a better deal. There will be a secondary market for these contracts, and this will not be good for the life insurance industry."

2) Definition and prohibition of "Stranger Originated Life Insurance":

- SB 513/AB 758 defines STOLI as "an act, practice, plan, or arrangement, **individually** or in concert with others, to initiate a life insurance policy for the benefit of a 3rd-party investor who, at the time of policy origination, has no insurable interest in the insured..... How can a person who takes out insurance on their own life-individually-where there is no stranger-be guilty of STOLI? It is impossible. This language has not been proposed or seen anywhere in the U.S. and simply demonstrates the insincerity of the proponents of the bill.

- Further, several courts have held that a unilateral intent to sell a policy pursuant to a lawful life settlement is NOT STOLI:

  a) In First Penn v. Evans (United States Court of Appeal, Fourth Circuit, 2009), it was set forth that "No third party participated in the procurement of (the insured's) policy and therefore no one was "wagering" on (the insured's) life in violation of **public policy.** Furthermore, as amicus curiae noted in its brief and at oral argument, evaluating the insurable interest on the basis of the subjective intent of the insured at the time the policy issues, as (the insurer) would have us do, would be unworkable and would inject uncertainty into the secondary market for insurance."

  b) In Sun Life v. Paulson, dated February 15, 2008, Minnesota Federal District Court Judge David Doty stated "the insured could give his properly procured life insurance policy to a third party without an insurable interest...The most important factor in determining the parties' intent is 'whether or not the assignment (from the insured to the third party) was done in pursuance of a preconceived agreement.' Intent however, is irrelevant without facts or allegations suggesting that a third party lacking an insurable interest intended, at the time (the owner) procured the policy, to acquire the policy upon expiration of the contestability period and the 'mere fact that a life settlement company purchased a

Wisconsin Legislative Strategies, Inc.
14 W Mifflin St, Suite 206
Madison, WI 53703
(608) 255-5522 tel • (888) 881-4921 fax • www.wisls.com

policy from (the owner) after the expiration of the contestability period does not establish that the company intended to purchase the policy when it was issued.

3) **Separate licensure required to act as a life settlement provider or broker:**

- SB 513/AB 758 includes an unprecedented and unjustified requirement that life agents, who are licensed to counsel consumers on the provisions of their policies—like the assignment and change of ownership and beneficiary clauses used in a life settlement- must obtain a separate license to advise and assist a policyowner with the very contract of insurance; and an even more bizarre exemption, which allows a patent, antitrust, criminal, or any other lawyer or CPA who knows nothing about life insurance to broker settlements without a broker's license. This directly contradicts BOTH the NAIC and NCOIL models and every other state in the nation. Its effect is not to protect consumers, but rather to protect insurers from competition by preventing and gagging life agents from giving basic advice to consumers about their property rights.

- It is demonstrably false for anyone to assert that consumers need this form of additional protection in life settlement transactions. According to the NAIC, from 2006 to 2009, state insurance regulators received a total of 16 consumer complaints involving life settlements. Compare that with the 72,000 consumer complaints regarding life insurance.

Coventry supports the prohibition of stranger originated life insurance and also wholeheartedly supports regulation of the life settlement industry. All sides of this issue agree that these issues need to be addressed. However, they do not need to be addressed in such a hurried and frantic way that has the effect of adversely affecting consumer choice and property rights, creates a monopoly that benefits insurance companies, and turns 140 years of insurance law in Wisconsin on its head.

It is clear that this legislation is very complex and causes many questions and concerns to arise. Other states have needed years to accurately and correctly address it. Consider the following:

- 19 states have adopted laws based on the NCOIL Model (or NCOIL Model provisions): California, New York, Illinois, Kansas, Indiana, Maine, Connecticut, Oklahoma, Utah, Montana, Arkansas, Hawaii, Kentucky, Georgia, Idaho, Washington, Arizona, Rhode Island, and Tennessee.

- In 12 of those 19 states the NAIC Model (what SB 513/AB 758 is modeled after) was initially proposed and was rejected in favor of the NCOIL Model (Kansas, Indiana, Maine, Connecticut, Oklahoma, Utah, Montana, Arkansas, Hawaii, Idaho, Arizona, Tennessee).

- 6 states adopted the NAIC Model, including those with so-called "hybrid approach"; Nebraska, Iowa, Ohio, North Dakota, West Virginia, and Oregon. Three unique laws have been adopted in Nevada, Vermont and Minnesota.

Wisconsin Legislative Strategies, Inc.
14 W Mifflin St, Suite 206
Madison, WI 53703

(608) 255-5522 tel • (888) 881-4923 fax • www.wisls.com

- In 7 of the 9 states that adopted the NAIC Model, the hybrid or something else, the legislature never considered the NCOIL Model (Ohio, Nebraska, North Dakota, West Virginia, Nevada, Vermont and Oregon).

We urge you to oppose passage of SB 513/AB 758 and allow for a proper and transparent legislative process to be conducted on this issue in the next legislative session. In the meantime, Coventry would support a Legislative Council Study to help facilitate this fair and appropriate process.

Thank you,

Jason Johns

Wisconsin Legislative Strategies, Inc.

Representing Coventry